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HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS QUESTIONS, INCLUDING ALTERNATIVE APPROACHES FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

Effective promotion of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities

Report of the Secretary-General

Addendum

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I. INTRODUCTION

1. The present report contains additional information received from Governments and non-governmental organizations after the publication of the report of the Secretary-General on the subject (A/49/415).

2. As at 25 October 1994, replies had been received from the Governments of Angola, Belarus, Colombia, Poland, Sweden and Ukraine. The Governments of Denmark and Germany sent a joint report on the situation of national minorities in the border regions of both States. The Government of Yugoslavia sent additional information on the status of the Bulgarian minority in that State.

3. The Minority Rights Group, a non-governmental organization in consultative status with the Economic and Social Council, sent a report entitled "Land Rights and Minorities" to the Secretariat (see chap. III below).

4. The present document contains the analysis of the additional replies submitted in accordance with General Assembly resolution 48/138 of 20 December 1993, entitled "Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities".

II. PROMOTION AND PROTECTION BY STATES OF THE RIGHTS OF PERSONS BELONGING TO NATIONAL OR ETHNIC, RELIGIOUS AND LINGUISTIC MINORITIES

A. The protection of the existence of persons belonging to minorities

5. Unfortunately, the war waged by the National Union for the Total Independence of Angola (UNITA) against the innocent population has created financial pressures and a demand for substantial human resources that the Government of Angola is hard pressed to meet. The defence of the civilian population, children, women and the elderly is a sacred obligation of the Government and is therefore of the utmost importance, and all resources are being devoted to the effort.

6. The Government of Angola attaches the utmost importance to human rights. The laws of Angola guarantee the protection of these rights at all levels, and the courts regularly monitor and reinforce them. There are no ethnic, religious or linguistic problems in Angola.

7. Article 18 of the Constitution is very clear:

> "All citizens are equal before the law and enjoy the same rights and are subject to the same obligations, without distinction as to colour, race, ethnic group, sex, place of birth, religion, ideology, level of education or economic or social status."

8. Unfortunately, in the provinces illegally occupied by UNITA, human rights are subjected to the most abhorrent atrocities and to continuing violations. Without protection, the civilian populations of the provinces illegally occupied by UNITA are subjected to all kinds of arbitrary treatment and to the most repugnant abuses.

9. Notwithstanding the difficulties and restrictions of all kinds which have resulted from a violent war that has brought destruction in all areas of the country's economic, social, administrative and cultural life, the commitment of the Angolan authorities to democracy is undeniable. The Government's respect for human rights is a reality that can be observed daily. The Angolan Government will continue its policy of promoting and protecting human rights and respect for international instruments on human rights and humanitarian law.

10. The Government of Belarus pointed out that the Supreme Soviet in November 1992 adopted the Law on National Minorities, which was based on the provisions concerning national minorities laid down in the report of the Conference on the Human Dimension of the Conference on Security and Cooperation in Europe (CSCE), held at Copenhagen in June 1990. In particular, according to article 5 of the Law, members of national minorities in Belarus enjoyed the same rights as all other citizens of the Republic.

11. The Governments of Denmark and Germany stated that the German minority population in the south of the Kingdom of Denmark was estimated at roughly 20,000, living mostly in the border region in the south and in the east of the Sonderjylland/North Schleswig Authority. In the larger communities in its settlement area the minority account for between 5 and 20 per cent of the population. Other members of the German minority live scattered throughout other parts of the region.

12. The Danish minority in the Land of Schleswig-Holstein in the far north of Germany is estimated at approximately 50,000, most of whom lived in Flensburg, Schleswig and Husum in Schleswig/Sydsleswig and in several other communities south of the German-Danish border and in the south-western part of the region. The figures for the Danish minority as a percentage of the population of individual communities varied widely and ranged from communities where there range from only a few minority families to about 20 per cent in Flensburg and some smaller places

13. The two Governments further pointed out that the protection of the fundamental rights and the identity of the members of the German minority guaranteed by the Constitution of the Kingdom of Denmark, which, while containing no special provisions on the protection of minorities, is generally liberal and kind to minorities. The further foundation for minority rights was provided by the Copenhagen Declaration of 29 March 1955, which followed the declaration of the Government of Denmark of 27 October 1949 (Copenhagen Statement). As regards general legislation, the Private Schools Act, the Libraries Act and the Social Affairs Act (for kindergartens), in particular, furnish the legal basis for the promotion of minority establishments.

14. The basic rights of the members of the Danish minority are, like those other German nationals, enshrined in the Basic Law of the Federal Republic of Germany. The legal basis for the status of the Danish minority was the Constitution of the Land of Schleswig-Holstein of 13 December 1949 in the form of the Act of 13 June 1990 Amending the Constitution of Schleswig-Holstein. Article 5 of the Constitution provides, inter alia, that profession of adherence to a national minority is open to all; it does not release individuals from generally applicable civic duties.

15. The process of systematic transformation initiated in Poland in 1989 has a significant impact on the situation of national minorities. Poland strives to adjust its laws towards the standards of international law. New legal regulations were made to address national minorities, usually in the form of provisions, in particular laws and lower normative acts. Many legal solutions, compatible with international standards, had been introduced prior to the adoption of General Assembly resolution 48/138 and Commission on Human Rights resolution 1944/22.

16. National minorities in Poland may freely associate. The law of 7 April 1989 on associations is based on the principle of freedom of association. Since its entry into force, 120 national associations have been registered (under communism, only seven such associations could operate).

17. New legal solutions were introduced into the Polish educational system in the field of teaching national minorities their mother tongue and having lessons in their mother tongue. The legal basis in that respect is the Law on the Educational System of 1991 and the Ordinance by the Minister of National Education on Organizing Education to Sustain the National, Ethnic and Linguistic Identity of the Student Members of a National Minority of 24 March 1992. This enables even a small group of students (from three to seven depending on the school profile) to have a class formed with teaching in the mother tongue or a curriculum in that language.

18. Other facilities are safeguarded for minorities under the Election Law to the Sejm (Diet) of the Republic of Poland of 28 May 1993. Election caucuses of registered organizations of national minorities are not subject to percentage thresholds in the number of votes gathered nationwide.

19. The law of 8 March 1990 on territorial self-government enables national minorities to participate in the local society. In communes where the non-Polish population prevails, they can determine their own destiny to the degree permitted by the scope of communal competence (the Law of 17 May 1990 on the Division of Responsibilities and Competence between Communal Units and State Administration Bodies).

20. An important element of State policy is increased access by minorities to public radio and television. This was safeguarded in the law of 29 December 1992 on radio and television broadcasting. Several regional radio stations air programmes in the languages of national minorities.

21. Another crucial element of protection of the rights of national minorities is the Law on the Relation of the Polish State towards the Polish Autocephalous Orthodox Church of 1991. Prior to that, the Law on the Relation of the Polish State towards the Catholic Church was passed in 1989, and determined the legal status of the Byzantine-Ukrainian domination in Poland. The above laws are of importance to the national minorities, which also belong to religious minorities. In addition, such persons are covered by the Ordinance by the Ministers of Labour and Social Policy, and of National Education of 12 November 1990 pertaining to leave from work or school for persons belonging to churches and other religious institutions on days that are not official holidays in Poland. This ordinance enables the Belarusians (Orthodox), Ukrainians (Greek Catholics) and Jews to observe their traditions and customs. Similar laws are drafted in the Sejm for the Evangelical Lutheran Church and Evangelical Reformed Church, and also for minor confessions.

22. Efforts to improve the legal position in Poland continue and, after 1993, drafts for new legal regulations were prepared.

23. The parliamentary Committee for National Minorities included in its draft of a new constitution an article pertaining to the rights of national minorities. The Constitution of the Republic of Poland provides for equal civil rights irrespective of the nationality of a citizen (art. 67, para. 2 and art. 81, para. 1), and imposes a penalty for any indirect or direct infringement of those rights. The dissemination of hatred or contempt, instigation of discord or humiliation of a person on the grounds of nationality are forbidden by law (art. 81, para. 2). However, no formula for protecting national identity among minorities has been developed in the form stipulated in the new draft.

24. Furthermore, work has commenced on the drafted law on the protection of rights held by members of national minorities. The White Paper drafted in cooperation with representatives of national minorities is regarded as a foundation for work by the Parliamentary Committee.

25. The fundamental changes in the legal system introduced in recent years are of major significance to national minorities. Departure from the totalitarian system and efforts to accept international standards have become prominent in Polish legislation. The overall process, however, including the case of national minorities, has not yet been completed.

26. In Sweden, according to Swedish constitutional law, no regulation can impose upon any citizen that he or she be discriminated against because of race, skin colour, ethnic origin, or the fact that he/she belongs to a minority.

27. The Government of Ukraine stated that Ukraine was a multi-ethnic State. In a total population of 52 million, the share of Ukrainians is 37.4 million or 72.7 per cent, while Russians, who represent 22 per cent, form the largest national minority, followed by 0.9 per cent of Jews, 0.9 per cent of Belarusians, 0.6 per cent of Moldavians, 0.4 per cent of Poles and Bulgarians, and 2.8 per cent of representatives of other nationalities. Representatives of ethnic minorities number 14 million, or 27.3 per cent.

28. An extensive political and legal basis in the field of inter-ethnic relations has been laid down in Ukraine. Among major legislative acts on this issue, the Law of Ukraine on National Minorities, the Law on Refugees and the Law on Migration should be mentioned.

29. A major problem for Ukraine is the issue of the return and rehabilitation of minorities deported during the Soviet period, which included Crimean Tatars, Germans, Poles, Bulgarians, Greeks and Armenians. The State is taking measures aimed at their legal, political, social and cultural rehabilitation.

30. The Government of Yugoslavia pointed out that, during the census in 1991, 26,922 inhabitants of Yugoslavia, that is, 0.2 per cent of the total population, declared themselves Bulgarians. In terms of their number they constituted the tenth minority group in the State. Persons belonging to the Bulgarian minority lived in central Serbia, and were most numerous in the communes of Bosilegrad (72.9 per cent of the inhabitants), Dimitrovgrad (52.5 per cent) and Surdulica (6.2 per cent). Persons belonging to national minorities in the Federal Republic of Yugoslavia, including the Bulgarian minority, enjoyed on the basis of equality with other citizens all human rights guaranteed in international instruments on human rights, as well as additional minority rights; the latter, in the view of the Government, went beyond the provisions of the United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (General Assembly resolution 47/135, annex).

31. The replies referred to above showed that non-discrimination and special measures leading to the equal enjoyment of all human rights remained the basis of the protection of the existence of persons belonging to minorities. In that respect the special measures being taken by the Government of Ukraine relating to the return of the deported Crimean nationals should be emphasized.

B. The right to enjoy their own culture

32. In accordance with the provisions of the Law on National Minorities of Belarus, members of national minorities are free to found cultural societies. In addition, they have the right to receive financial support from the State.

33. The Government of Colombia indicated that ethnic and cultural education in Colombian society is diverse and pluralistic; it focuses on the descendants of indigenous ethnic groups comprising the pre-Colombian cultures, the descendants of Africans brought as slaves during the colonial period and the descendants of ethnic Europeans who colonized the country, the majority of whom were Spanish.

34. The Political Constitution of Colombia, promulgated in 1991 by a democratically elected National Constituent Assembly, recognizes this fact and provides the country with the tools required to guarantee the protection of ethnic, cultural, religious and linguistic diversity.

35. Thus, this fundamental document states in articles 7 and 8 that the State recognizes and protects the ethnic and cultural diversity of the Colombian nation, and, that it is the obligation of the State and of individuals to protect the cultural and natural assets of the nation.

36. The protection of linguistic traditions is established in article 10, which states that the education provided in communities with their own linguistic traditions shall be bilingual.

37. Similarly, the Colombian Government protects religious freedom as follows:

"Article 19

"Freedom of religion is guaranteed. Every individual has the right freely to profess his religion and to disseminate it individually or collectively. All religious faiths and churches enjoy equal freedom before the law."

38. There are two large minority ethnic groups in Colombia: the indigenous population and the Black population.

The Afro-Colombian population

39. The Afro-Colombian population comprises approximately 6.5 million persons, including the ethnic group resulting from intermarriage between Whites and Blacks, usually referred to as mulattos.

40. The Afro-Colombian population may be found in the Pacific and Atlantic coastal regions, the mining areas of the Departments of Caldas, Antioquia and Santander, in the Cauca and Magdalena river valleys, in the agroindustrial belts and in the outskirts of the cities of Cali and Medellín.

41. Most of the Black communities of Colombia live along the Pacific coast and are grouped in 32 towns in the departments of Chocó, Valle del Cauca, Cauca and Nariño.

42. The major urban concentrations of Blacks may be found in Buenaventura, Quibdó, Tumaco, Guapi, Puerto Tejada, Santander de Quilichao, Puerto Berrío, Puerto Boyacá, Dorada, Turbo, Cartagena, Barranquilla, Santa Marta, Cali and Riohacha.

43. The Pacific and Atlantic coastal regions are home to 90 per cent of the Afro-Colombian population, who have chosen to live mainly along the coasts and rivers. Along the Pacific coast, the Black communities live among a population which includes 5 per cent indigenous inhabitants, living in the mountainous regions and along the rivers, and 5 per cent White inhabitants.

44. There are two kinds of economies along the Pacific coast: the formal economy, characterized by agriculture, industry, fishing and construction, and the traditional economy. The Black communities are the actors in the traditional, or subsistence, economy. Peasants in this region are farmers, fishermen, miners, craftsmen, woodcutters, oarsmen, sailors, hunters and day labourers. They work in one capacity or another, depending on their needs. Their basic skills enable them to move about within the various parts of the region, in rhythm with the planting and crop rotation seasons. Women are

involved in domestic activities and work with men in agriculture, mining, crafts, fishing and retail sales.

45. This is an economy that is close to nature, one in which the values of community life, respect for and harmony with nature and the concepts of collective and interpersonal solidarity prevail. Most of what is produced is used by the family, and only a small percentage goes to market. In rural areas, the communities own small parcels of land.

46. In implementation of provisional article 55 of the new national Constitution, which calls for the enactment of a law recognizing the collective ownership by Black communities of uncultivated lands in the territory which they occupy, the national Government reached an agreement through consultation and established a national commission and various regional advisory commissions which submitted to the Congress of the Republic what is now draft law 70 of 1993. The law contains an advanced framework for the establishment of standards to improve the objective circumstances of Black communities. Among the most significant aspects of the law, the following merit special mention:

(a) Political rights. With the creation of a special district, Black communities will have a minimum of two seats in the House of Representatives, guaranteeing them a permanent voice in the Congress of the Republic;

(b) Territorial rights. The draft law grants the right of collective ownership to the communities occupying uncultivated lands in rural areas adjoining the rivers of the Pacific basin which they work using traditional methods of production. In this way, moreover, the responsibility for protecting the environmental resources of the area has been entrusted to the communities living there, which entails a substantial commitment on their part to the sustainable management of the biological and geographical resources of the Chocó;

(c) Mining rights. The Black communities living in the Pacific region have priority rights with respect to mining operations there;

(d) Ethnic education. Draft law 70 of 1993 establishes various mechanisms guaranteeing the right to an education which reflects the population's needs and cultural aspirations;

(e) Economic progress and development. To achieve these goals, provision has been made for the participation of Black communities in key social policy-making bodies, including territorial planning councils and governing councils of the regional autonomous corporations. In addition, the Black communities concerned are required to be actively involved in the design and execution of technical cooperation projects.

47. The measures envisaged in draft law 70 of 1993 thus lend significant support to the effort to improve the circumstances of Colombia's Black communities.

Indigenous ethnic groups

48. At present, there are no fewer than 80 known ethnic groups in Colombia, and more than 1 million indigenous people live throughout the national territory. As a result of the 1991 Constitution and the far-reaching effort launched over 25 years ago to organize and mobilize indigenous peoples, indigenous communities today are very well represented in the political sphere and participate actively in public life.

49. The political Constitution of 1991 represented substantial progress in that it recognized that all cultures of the country deserved respect in the legal, social and political spheres. Articles 7, 8, 10 and 70 of this fundamental instrument provide the foundation for the recognition of indigenous communities and other ethnic groups. Article 70 states:

> "The State has the obligation to promote and foster access to the culture of all Colombians equally by means of ongoing education and scientific, technical, artistic and vocational instruction at all stages of the process of creating the national identity.
>
> "Culture in its diverse manifestations constitutes the basis of nationality. The State recognizes the equality and dignity of all who live together in the country. The State shall promote research on and the development, dissemination and knowledge of the cultural values of the nation."

50. The objective of this provision is not only to preserve the customs and traditions of ethnic groups (dances, songs, clothing, myths, legends), but also, to ensure their active integration into the cultural life of the country.

51. As a complement to the foregoing, article 10 of the Constitution both establishes Spanish as the official language of Colombia and states that the languages and dialects of ethnic groups are also official in their own territories. The education provided in communities with their own linguistic traditions shall be bilingual.

52. Article 330 of the Constitution establishes a broad administrative framework for indigenous communities:

> "In accordance with the Constitution and the laws, the indigenous territories shall be governed by councils, which shall be established and regulated in accordance with the practices and customs of their communities and shall exercise the following functions:
>
> "(1) Oversee the application of legal regulations governing the uses of the land and the settlement of their territories;
>
> "(2) Design economic and social development policies, plans and programmes within their territory, and in accordance with the National Development Plan;

"(3) Promote public investment in their territories and monitor their proper implementation;

"(4) Collect and distribute their funds;

"(5) Oversee the conservation of natural resources;

"(6) Coordinate the programmes and projects promoted by the various communities in their territory;

"(7) Collaborate in the maintenance of public order within their territory in accordance with the instructions and provisions of the national Government;

"(8) Represent the territories before the national Government and before other entities to which they belong; and

"(9) Other functions stipulated by the Constitution and the laws.

"The exploitation of the natural resources in the indigenous territories shall be carried out without endangering the cultural, social and economic integrity of the indigenous communities. The Government shall encourage the participation of representatives of the respective communities in decisions adopted with regard to such exploitation".

53. Article 246 of the National Constitution grants indigenous peoples jurisdictional functions, which must be exercised in accordance with their practices and customs, provided that they are not contrary to the Constitution and the law:

"The authorities of the indigenous peoples may exercise their jurisdictional functions within their own territory in accordance with their own rules and procedures, provided that they are not contrary to the Constitution and the laws of the Republic. The forms of coordination between this special jurisdiction and the national judicial system shall be established by law."

54. In the opinion of the Constitutional Court:

"The situation of the members of indigenous communities differs from that of other territorial entities in that the former enjoy autonomy within their territories not only with respect to administrative, budgetary and financial matters, as may be the case in the departments, districts and towns, but also in the political and legal spheres, to the extent allowed by law; this means that they are able to elect their own authorities, which exercise jurisdictional functions within their territory. This is nothing less than the recognition and partial fulfilment of the principle of participatory and pluralistic democracy and respect for the ethnic and cultural diversity of the Colombian nation."

55. Similarly, article 171 of the National Constitution establishes a special district with two senators elected by indigenous communities, and such senators must have held a position of traditional authority in their respective communities.

56. The Bonn/Copenhagen Declarations of 1955 contain, among others, provisions relating to ensuring rights of pertinent minorities to culture. In particular, it states that the cultivation of Danish or German customs and culture is open to anyone and may not be contested or verified ex officio.

57. It was pointed out that the significant contribution to the German minority's cultural activities was the establishment of the library system. It ran the Deutsche Zentralbücherei (Central German Library), three mobile libraries, which visited villages and farms, and a total of 23 other village and school libraries - which were all linked in the Verband deutscher Büchereien (German Libraries Association). Members of the minority, as well as other Danish citizens, thus had access to a broad spectrum of German literature (about 190,000 volumes) and a wide range of tapes and cassettes. Apart from a legally established special grant from the Government of Denmark to the German minority's libraries - Denmark otherwise paid no grants to private libraries - funds were also received from Sonderjylland district and various municipalities.

58. In addition to a broad German cultural programme, including events and theatre trips to Germany, many associations that aimed at keeping up German traditions were available to the German minority in Denmark. The minority had set up several "German houses", which were financially self-supporting, to function as social and gastronomic centres.

59. The Danish minority's principal cultural and ethnic organization was the Sydslesvigsk Forening (SSF, South Schleswig Association), with the Dansk Generalsekretariat (Danish Secretariat-General) in Flensburg. A further 26 associations, which fulfil widely differing functions, are attached to the SSF. There were also a number of independent organizations. All worked together in an advisory committee known as Det sydslesvigske Samrad (The South Schleswig Advisory Group), which coordinated Danish activities.

60. The Danish minority has its own central library, the Dansk Centralbibliotek for Sydslesvig (Central Danish Library for South Schleswig), which is the main local library for adults and children and includes two mobile libraries, a bibliography section and a range of audiovisual material. It has two main branches and 110 small branches in schools and kindergartens. It also maintains a research department and an archive.

61. Among the most important principles of the national policy of Ukraine was the realization of cultural autonomy. There were about 237 national-cultural societies in the Republic, which published 48 newspapers. For example, 10 newspapers were published in Hebrew, four in the Crimean Tatar, three in Polish, seven in Romanian and Moldavian, and one in the Bulgarian language. There are 30 Russian theatres, as well as 36 Ukrainian-Russian, one Crimean Tatar, one Hungarian, one Jewish and one Romanian theatre.

62. The Government of Yugoslavia pointed out that the cultural activities of the members of the Bulgarian national minority were of a long-standing tradition and played a special role in the preservation and fostering of national identity. Cultural and artistic work unfolded through the cultural centres in Dimitrovgrad and Bosilegrad. There were two cultural and art societies of the Bulgarian national minority, as well as the "Hristo Botev" amateur theatre, which offered plays in Bulgarian. The municipal library of Dimitrovgrad has a stock of about 30,000 titles in Bulgarian, while the municipal library in Bosilegrad has about 14,000 titles. International cooperation was traditionally the interchange of cultural programmes and guest performances with cultural institutions in Bulgaria.

63. Bearing in mind what has been said above, it may be stated that the aforesaid States took measures to guarantee the right of persons belonging to minorities to equal participation in cultural activities. It is difficult to form an accurate estimate of guarantees of this right by those States because some of them (Denmark and Germany) described in detail the measures aimed at the promotion of this right, one State (Belarus) pointed out only some of those measures, while another State (Sweden) did not mention them at all. It may be stated, however, that the States guarantee equality of cultures and provide access to the culture of both the majority population and ethnic groups.

C. The right to profess and practise their own religion

64. The Governments of Denmark and Germany pointed out that the members of the German minority in the rural communities belonged to the Evangelical-Lutheran Nordschleswigsche Kirche (North Schleswig Church), an evangelical free church under Danish law, which is financed by its own income and by funds from the Nordelbische Kirche (Protestant Church) in Germany. In the four towns in the area inhabited by the minority, the Government of Denmark met on a legal basis the personnel and material costs for four German parishes within the scope of the Danish national church.

65. Church activities of the Danish minority are organized by the Dansk Kirke in Sydslesvig (Evangelical-Lutheran Danish Church in South Schleswig). As a registered association under Germany law it is a free church, with 44 parishes and 24 pastors. It is independent of the North Elbe Evangelical-Lutheran Church in Germany and of the Folkekirke (national church) in Denmark, but cooperates closely with the Dansk Kirke i Udlandet (Danish Church Abroad), a private organization in Odense, Denmark.

D. The right to use their own language

66. The Bonn/Copenhagen Declarations of 1955 contained provisions concerning the right of pertinent minorities to use their own languages. The relevant paragraphs of the Declarations read as follows:

> "Members of the two national minorities and their organizations may not be impeded in the spoken or written use of their chosen language.

"The minorities are entitled, in accordance with applicable laws, to establish general and adult education (including vocational) schools and kindergartens."

67. It was pointed out that the members of the German minority were fluent in German and also spoke Danish. The local school and kindergarten associations in the Deutscher Schul- und Sprachverein (German Schools and Language Association) maintained 18 private schools of various types, as well as 25 kindergartens for the German minority. The teaching language in the schools was German, but a wide-ranging education in Danish language and literature was obligatory and, along with German, a compulsory examination subject. The curricula must guarantee the same standard of education as we provided in Danish state schools.

68. The Deutsches Gymnasium (German upper secondary school), in keeping with the Danish education system, caters for classes 10 to 12 (with subject-based teaching). The teaching language is German and there are compulsory classes in Danish language and literature: technical Danish vocabulary is also taught, particularly in the sciences. Gymnasium studies lead to the Danish "student exam", which, by ordinance of the Ministry of Culture of the Land of Schleswig-Holstein, is recognized throughout Germany as a school-leaving and university entrance qualification (providing an appropriate range of subjects has been covered). The Gymnasium has a section for boarders and is under the supervision of the Danish Ministry of Education, which gives the private German schools - and all other private schools in the country - a government grant for each pupil amounting in 1993 to 73 per cent (by 1995 75 per cent) of the cost of keeping one pupil at a state school in 1991. Thanks to a special government grant for German-minority schools to go towards meeting the cost of native-speaker-standard bilingual instruction, the total government grant increased in 1993 to about 84 per cent of the cost incurred by one pupil at a state school in 1991. In addition, the Government of Denmark gives grants that go towards the cost of school transportation.

69. As far as the Danish minority in Germany is concerned, it was stated that all its members understood Danish and most of them spoke it as well, while they were also all fluent in German. In rural areas sections of the Danish minority spoke "plattdeutsch", a Low German regional dialect; in areas right on the border, some also addressed their German neighbours in Sonderjysk, a Danish regional dialect. The Danish minority also published a Danish-language daily newspaper, entitled Flensborg Avis, which contains a German section. In addition, Flensborg Avis held shares in Radio Schleswig-Holstein, a private radio station; the editors put together a daily news programme in Danish, which was broadcast on Radio Schleswig-Holstein. The minority saw no need to have other media as several Danish television and radio channels could be received in the settlement area and subscriptions were readily available to Danish newspapers and periodicals.

70. The sponsor of school and kindergarten activities is the Dansk Skoleforening for Sydlesvig (Danish Schools Association in South Schleswig), which currently runs 53 schools of different types and 63 kindergartens. The schools include primary and junior secondary schools, four secondary-modern schools and a grammar school as well as a boarding school and a residential adult education college. The language of instruction is Danish, except in the

main compulsory subject, German. In the final classes and courses, however, it is ensured that technical terms are also given in German, especially in maths, science and economics, so that the pupils can be adequately prepared for their training in German-speaking companies and universities. The school-leaving qualifications are recognized in both Germany and Denmark.

71. Under Schleswig-Holstein's Schools Act, Danish minority schools must be approved and given financial support if requested by the Danish Schools Association. The aims and establishments, as well as the qualifications of the teaching staff at private Danish schools, however, must correspond to those in state schools. They are supervised by the Ministry of Culture of the Land of Schleswig-Holstein. The Land makes a contribution for each pupil to help meet personnel and material costs; this amounts to 100 per cent of the costs incurred in keeping one pupil at a comparable state school in the previous year. Grants to cover school transport are made by the Land, districts and some of the municipalities. The Danish minority's kindergartens also use Danish. Many municipalities provide grants for their upkeep. Parents have to make the usual contributions.

72. The Government of Ukraine stated that the State provided exceptionally favourable conditions for the preservation and free development of languages of national minorities. In the regions with a large proportion of national minorities, their languages were used together with the State Ukrainian language. There were schools where instruction was in Russian (2,937 schools, Hungarian (61), Moldavian (12), Romanian (95), Crimean-Tatar (2) and other languages (8 schools).

73. In Ukraine, newspapers and magazines are published in the languages of the minority ethnic groups. For instance, five newspapers and two magazines are published in the Crimean Tatar language, and the all-Ukrainian newspaper Roden krai is published in Bulgarian. In accordance with a decree of the Council of Ministers, six state publishing houses established editorial boards for publishing literature in national minority languages. Training University has opened a Jewish department and the Kiev Theatre Art Institute is training personnel for the Hungarian drama theatre. New educational establishments for national minorities were created, one of which was the International Solomon University.

74. It is stipulated under the Constitution of Yugoslavia that, in areas where national minorities live, their languages and scripts shall be in official use. In Bosilegrad and Dimitrovgrad, communes with a majority Bulgarian population, the highest legal acts of the communes, their statutes, stipulate that, in addition to the Serbian language and the Cyrillic script, the Bulgarian language and script are simultaneously in official use. All the communal bodies and other organizations exercising public authority use of the Bulgarian language on an equal footing with the Serbian language. Geographical names, the names of streets, enterprises and other public signs are written in both languages. The Bulgarian language is used in both written and oral interchange between organs and organizations, as well as with parties, that it, citizens, in proceedings conducted to give effect to and protect the rights, duties and responsibilities of citizens, in the maintenance of records, the issuance of public documents and

so on. In the Dimitrovgrad elementary school and high school, all instruction is given in the pupils' mother tongue.

75. The replies referred to above showed that those States pursued the policy of teaching minority languages as well as majority ones. Teaching minority languages prevented language loss and also prevented the linguistic and cultural assimilation of relevant ethnic and national minorities. Moreover, the minority language transmitting the cultural values and traditions of the groups significantly contributed to the groups' identity. This right is closely interrelated with the right to education, which has been ensured in the aforesaid states. However, Denmark and Germany were the only States that specified that minority groups took part in running their educational systems.

E. The right to participate effectively in cultural, religious, social, economic and public life

F. The right to participate effectively in decisions on the national level

76. The Governments pointed out in a general way that every citizen of their States, irrespective of his or her membership in a majority or minority group, had the right to participate effectively in cultural, religious, social, economic and public life and in decisions at the national level. In addition, it was stated that, in Germany, national minority parties were exempt from the 5 per cent clause, under which political parties were required to gain at least 5 per cent of the valid votes cast to be represented in the Bundestag. A similar provision was made in the Electoral Act for the regional parliament of the Land of Schleswig-Holstein. Within the scope of proportional representation, however, a Danish minority party must obtain a number of votes corresponding to the number of votes required for the last seat to be won in the parliament of Schleswig-Holstein according to the procedure.

77. The political organization of the Danish minority (and the ethnic Frisians) is the Sydslesvigs Vaelgerforening (SSV, South Schleswig Voters' Association), which is based in Flensburg. This party has one member of parliament (who has parliamentary group status) in Schleswig-Holstein's parliament, as well as over 100 representatives in district, municipal and local administrations throughout the region. The SSV no longer puts up candidates for election to the Bundestag as it sees no chance of obtaining the necessary votes to win a seat. There is, however, a consultative committee on matters concerning the Danish minority at the Federal Ministry of the Interior. The committee is chaired by the Federal Minister of the Interior and includes members of the parliamentary groups in the Bundestag, a representative of the Government of Schleswig-Holstein and representatives of the Danish minority. It meets once a year and deals, in particular, with domestic affairs concerning the Danish minority and with the development of the minority's rights. The Minister-President of the Land of Schleswig-Holstein has appointed a commissioner for the border region to tackle issues relating to the minority.

G. The right to establish and maintain their own associations

78. In Denmark, the main organization of the German minority is the Bund deutscher Nordschleswiger (BdN, Federation of German North-Schleswigers), based in Åbenrå, and there are numerous other associations with specific functions. The central administrative agency is the Deutsches Generalsekretariat (German General Secretariat). The aim and purpose of the BdN is to look after the interests of the German minority in Denmark and to help ensure the harmonious development of the German-Danish border area. The BdN voices the concerns of the German minority in the two countries' parliaments, Governments and authorities and in public and maintains close contact with associations and cultural institutions in Germany. The BdN is also the organizational backbone of the Schleswigsche Partei (SP, Schleswig Party), which is particularly active in representing the minority in local politics. It sends one member to the Council of Sonderjylland and is represented on several local councils. The members of the Danish minority have formed many clubs and associations, ranging from the farming association to housewives' associations to citizens' groups, which help to hold the minority together and also run restaurants and so on.

79. The Deutscher Jugendverband für Nordschleswig (German Youth Association for North Schleswig) and the Nordschleswigschier Ruderverband (North Schleswig Rowing Club) comprise over 30 German youth groups, sports clubs and rowing clubs, which, with support from the municipalities, offer a wide range of leisure activities for young people and sports-minded adults, organize central sports competitions and contribute towards youth exchanges. The Jugendverband is linked with the youth organizations of other national minorities in the institution Jugend Europäischer Volksgruppen (JEV, Youth of European Ethnic Groups). The central instructional centre for the Jugendverband is Jugendhof Knivsberg.

80. The Sydslesvigs Danske Ungdomsforeninger (SDU, South Schleswig Danish Youth Associations) is the umbrella organization for the broad-ranging youth work of 77 youth associations. It sponsors recreational centres and sports facilities, as well as the Danish-speaking amateur theatre "Det lille Teater" in Flensburg. The SDU cooperates with the youth organizations of other national minorities in Jugend Europäischer Volksgruppen (Youth of European Ethnic Groups).

81. In Belarus, there are eight associations of national minorities. They are the association of Ukrainians of Belarus, "Vatra", the social-cultural association "Polissye", the Foundation for the Preservation of the Jewish Historical and Cultural Heritage in Belarus, the Union of Poles in Belarus, the Belarus-Azerbaijan society "Gobustan", the Byelorussian centre for German culture "Vozrodzenye", the "Moldova" society and the Byelorussian association of Muslim Tatars "Al-Kitab". In Ukraine, there are 237 national-cultural societies.

82. In Sweden, according to constitutional law, everybody living in Sweden has the right to be organized politically and culturally.

83. The Government of Yugoslavia stated that the declining economic power in the country, to which the United Nations Security Council sanctions have contributed, has detracted from the basic conditions for the exercise of human rights, as well as from the State's capacity to assist minority institutions and organizations. The Democratic Association of Bulgarians is a registered political organization, but one with a small number of members and little political influence. In the view of the Government, it takes advantage of this situation seeking to have it seen as a deliberate neglect of minority rights on the part of the State (for example, the situation regarding the financing of minority papers, which are confronted with a crisis, as are all other papers, and, in fact, the State is making efforts and managing to maintain them under these conditions).

H. The right to establish and maintain free and peaceful contacts with other members of their group, as well as contacts across frontiers

84. It was pointed out that, in accordance with the Bonn/Copenhagen Declarations of 1955, the special interest of the Danish and German minorities in cultivating their religious, cultural and technical ties with Denmark and Germany, respectively, was recognized. There was relevant activity in this field. For example, an association called the Sydslesvigsk Forening devotes itself to promoting Danish work in South Schleswig, the Danish language, as well as Danish traditions and customs. It also maintained active contact with Denmark and the other Nordic countries.

I. Equality before the law

85. In addition to the joint Danish-German report, the Government of Denmark sent a list of measures concerning the integration of ethnic minorities and the prevention of racism and intolerance in Denmark, prepared by the Danish Ministry of the Interior. Stating that the total number of foreign citizens was about 189,000 or 3.6 per cent as of January 1994, the Ministry pointed to legal measures aimed at ensuring the nationality groups (mainly Turks, Iranians and Sri Lankans) the status of non-discrimination and equality before the law.

86. Paragraph 266 (b) of the Danish Penal Code states that:

> "Any person who, publicly or with the intention of wider dissemination, makes a statement or other communication by which a group of people are threatened, insulted or degraded on account of their race, colour, national or ethnic origin, religion or sexual orientation, shall be liable to a fine, simple detention or imprisonment for any term not exceeding two years."

87. Promulgation Order No. 626 of 29 September 1987 makes discrimination in establishments and at arrangements open to the public a punishable offence. Act No. 466 of 30 June 1993 on the Racial Equality Board established a mechanism to combat unequal treatment in all its aspects and to support the view that all ethnic groups in society are given equal opportunities. The Board may not deal

with individual complaints, but studies trends and general problems of inequality, on the basis of which it provides advice to the proper authorities. The Board also plays an awareness-creating role, for example, by organizing meetings and conferences. The Board is currently working in four main areas to promote tolerance and ethnic equality: the media, the labour market, the police and judiciary, and the welfare and health sectors.

88. The Government of Sweden stated that the 1994 Act to Counteract Ethnic Discrimination contains two prohibitions of improper treatment on ethnic grounds: because of race, skin colour, national or ethnic origin or religious creed. One prohibition covers the treatment of job applicants and the other the treatment of employees. The chief sanction against violations of the discrimination prohibition was compensation. In the Local Government Act, there are provisions intended to guarantee that all inhabitants in a municipality are treated equally and that matters are dealt with in a democratic manner. The principle of equality of treatment is fundamental and an appeal may be lodged against any municipal decision that rests on an inequitable foundation.

89. The Penal Code contains several different provisions on unlawful discrimination against a person on the grounds of his or her race, skin colour, national or ethnic origin or religious creed. Furthermore, as a result of a recent change in the Penal Code, a new provision has been added, according to which an aggravating circumstance was added for the increase in the severity of the punishment if a crime were committed from the motive to offend a person or a group because of race, skin colour, national or ethnic origin, religious creed or any similar circumstance.

90. In accordance with the relevant legislation, citizens of Ukraine who are members of national minorities have the right to be elected or appointed, as the case may be, on an equal footing to any position in the organs of legislative, executive or judicial power, local or regional government, in the army, in enterprises and in institutions or organizations. The Ukrainian State takes responsibility to ensure conditions for equal development of national minorities in ethnic, cultural, language, religious and other fields.

91. The Government of Yugoslavia stated that every citizen of Yugoslavia, whether a member of a minority or majority group, was equally entitled to share in the distribution of power at all levels under equal conditions.

J. Mechanism, procedure and other measures to promote and protect the rights of persons belonging to minorities

92. The Governments of Denmark and Germany stated that, since the number of votes cast for the Schleswigsche Partei was no longer sufficient to give the minority a mandate in the Danish national parliament, the Folketing, the Government of Denmark in 1983 set up a secretariat for the minority in the parliament and Government in Copenhagen. The head of the secretariat is elected by the minority. There is also a contact committee comprising representatives of the Folketing, the Government of Denmark and the German minority and chaired by the Danish Interior Minister. The committee usually meets once a year to discuss any problems that might arise, as well as the general situation of the

minority. With regard to contacts with Germany, and particularly with the Land of Schleswig-Holstein (which lies directly below the border), the Council for Matters Relating to the German Minority In North Schleswig of the Schleswig-Holstein Landtag (regional parliament) is of special significance. That body generally meets twice a year under the chairmanship of the President of the Landtag. It consists of members of the Landtag, members of the Bundestag from Schleswig-Holstein, representatives of the Government of the Land and representatives of the German minority in Denmark.

93. The Bund deutscher Nordschleswiger has links throughout Europe with other national minorities and ethnic groups within the framework of the Föderalistische Union Europäischer Volksgruppen (FUEV, Federalist Union of European Ethnic Groups) and cooperates with other German minorities in a working group. The activities of the BdN and the other German associations are financed through their own efforts, as well as through donations from private individuals, associations and foundations and, substantially, through grants from the Danish national budget and the budget of Danish municipalities. Considerable sums are also provided by the Federal Republic of Germany and the Land of Schleswig-Holstein.

94. The social welfare of the German families is the responsibility of the Sozialdienist Nordschleswig (North Schleswig Social Services). The work of the minority farmers is supported by the Landwirtschaftlicher Hauptverein für Nordschleswig (Main Agricultural Association for North Schleswig), which receives grants from the Government of Denmark for its advisory services. A group called Collegium 1961 looks after students from the German minority at Danish universities and colleges and, in that connection, runs two small student halls. The German minority sees shortfalls in public funding, particularly in the lack of grants for kindergartens in some communities and in the financing of cultural activities.

95. The Land of Schleswig-Holstein supports through grants not only the school system, but also cultural and youth work, adult education, the health service, the Federation of Agricultural Associations and the political work of the SSV group in the regional parliament. Grants for the Danish minority's cultural activities are given at the local level as well. The minority sees a problem, in particular, in what it regards as insufficient financial support for Danish culture and for kindergartens from some of the municipalities.

96. The two Governments also pointed out that, in the case of grants and other benefits from public funds decided upon a discretionary basis, that treatment of members of the two minorities must not differ from that of other citizens.

97. In addition, according to information provided by the Danish Ministry of the Interior, the Government of Denmark facilitates the setting up of, and provides economic support for, various associations and councils for immigrants and refugees, allowing them an effective means of voicing their concerns and wishes in relation to their situation in Danish society. Among the most important examples are two non-governmental organizations: the Federation of Ethnic Minorities in Denmark and the Immigrants Council in Denmark. Furthermore, the Council of Immigrants, which is a forum for all immigrant

organizations, provides advice to the Minister of the Interior on all matters related to immigration and integration.

98. The Ministry further pointed out that the Council of Europe met at Vienna on 8 and 9 October 1993 and adopted a plan of action for combating racism, xenophobia, anti-Semitism and intolerance. Part of the plan of action is a campaign aimed particularly at the young, that will have a national and local dimension in Denmark. This will be carried out by the Danish Youth Council, the Ministry of the Interior and a wide range of other institutions and organizations that make up the membership of the National Committee set up under the campaign. The campaign will, in all likelihood, consist of measures for the creation of general awareness and information, as well as special measures to promote cultural meetings by activating and integrating young members of ethnic minorities in leisure activities, associations and clubs also frequented by Danes. Furthermore, the Nordic Council has resolved to implement a Nordic campaign against racism and xenophobia. This campaign will be closely linked to the Council of Europe Campaign and will be implemented in such a way that work of a repetitious or inexpedient nature will be avoided.

99. The Government of Sweden pointed out that the two principal agencies entrusted with the task of counteracting ethnic discrimination were the National Board of Immigration and the Ombudsman against Ethnic Discrimination. The National Board of Immigration focuses on studies and dissemination of information and is responsible for communicating its findings so as to forestall and prevent ethnic conflicts. The Ombudsman against Ethnic Discrimination is responsible for counteracting existing or suspected discrimination, mainly from a legal perspective. The Ombudsman must assist individuals who have experienced discrimination and protect their rights by providing expert advice and information, help form public opinion by participating in public debate and recommend legislation and other measures to combat ethnic discrimination. In some cases, when a crime against the Act to Counteract Ethnic Discrimination was suspected, the Ombudsman has also had a litigating role.

100. Measures concerning a national minority in Sweden, the indigenous Saami population, were described in the eleventh report of Sweden to the Committee on the Elimination of Racial Discrimination. 1/ On 26 August 1993, after the submission of that report, the governmental authority for Saami affairs was inaugurated. The governing body of that authority is an assembly, the Sameting, with 31 members, all elected every fourth year by the Saami population. The Sameting will, inter alia, decide on the distribution of funds allocated by the Government to promote Saami culture and to support Saami organizations.

101. The Government of Yugoslavia pointed out that funds were regularly earmarked from the budget of the Republic of Serbia for publishing expenses for the Bulgarian newspaper Bratstvo and for publishing houses. Within the framework of the last distribution of radio frequencies tender, the Government of the Republic of Serbia allocated a frequency to the assembly of the commune of Dimitrovgrad.

K. Commitments under international treaties and agreements

102. The Governments of Denmark and Germany pointed out the provisions of the Bonn/Copenhagen Declarations of 1955, which were analysed above. In the view of the Governments, German unification did not change the status in international law of the Bonn/Copenhagen Declarations. For its part, the Government of the Federal Republic of Germany has said that the Bonn Declaration constituted a binding international obligation, which has been approved by the German Bundestag and can be amended or terminated only with the agreement of the Government of Denmark. The Bonn/Copenhagen Declarations were, it stated, a unique example of a positive joint approach to tackling minority issues.

103. The Government of Ukraine considered that the realization of rights of persons belonging to minorities should correspond to international human rights standards embodied in the Charter of the United Nations and the Helsinki Final Act, including those relating to the territorial integrity of States. As a party to major United Nations conventions in the field of human rights, Ukraine undertook to be guided by the provisions of those instruments in its policy concerning the rights of persons belonging to minorities.

III. NON-GOVERNMENTAL ORGANIZATIONS

Minority Rights Group

104. The Minority Rights Group has recently published a report entitled "Land Rights and Minorities", written by Mr. Roger Plant with the support of the Group's office. The Minority Rights Group makes a descriptive survey of the problems of land rights, and traditional land-tenure systems faced by minority groups. It also assesses the legal and administrative measures adopted to deal with them. The large number of land and resource claims discussed in the report show that land and access to resources are a major source of conflict involving minorities, which the international community has been trying to resolve.

105. The parts of the report most relevant to the issue of the effective promotion of the Declaration are reproduced below:

> "There is no reference to land concerns in the 1992 United Nations Declaration on Minority Rights. There are general references to concerns of economic and social rights. Examples are the provision (Article 2.2) that minorities should have the right to participate in economic life, and the somewhat vague provision (Article 4.3) that 'States should consider appropriate measures so that persons belonging to minorities may participate fully in the economic progress and development in their country'. It has been argued that certain provisions of the Declaration can be construed as recognizing basic subsistence rights, in that depriving a group of the basic economic resources necessary to sustain its existence would violate the principles of the Declaration.
>
> "Many recent reports published by the Minority Rights Group itself indicate that land is among the foremost problem areas - if not the foremost problem area - now faced by minorities in different parts of the

world. This is equally true for the indigenous peoples of the Americas, the forest-dwelling peoples of the South and South-East Asia, African pastoralists, the 'northern minorities' of Russia and such groups as the Bedouin of the Negev in the Middle East ...

"Given the potential gravity of problems in some regions, it is surprising that the international community has been slow to grapple with the land rights dimensions of emerging conflicts. The absence of anything approaching a set of principles means that the international community has to adopt an ad hoc approach when tensions erupt into armed and ethnic conflict. At the time of writing Bosnia constitutes perhaps the most flagrant example, but there are many other similarly horrendous situations on the horizon. Notably in Africa, land has been a crucial factor behind ethnic tensions in such countries as Ghana, Burundi and Rwanda in the first months of 1994 alone.

"Discrimination in land access can be an important factor fuelling ethnic tensions. It happens when a country is subject to conquest by a dominant group which is determined to exercise control over the most fertile lands and likely to secure a labour supply from the weaker groups by depriving them of equal access to the land. The colonial experience in developing countries usually involved white European minorities establishing one legal framework for settler groups and another for indigenous peoples. There have been more recent post-colonial experiences where an economically and politically dominant group has engaged in a clear pattern of discrimination, in both law and practice, against other population groups. In other cases land law and policies have favoured a politically dominant 'indigenous elite' at the expense of other ethnic groups, which comprise a significant proportion of the national population. The weaker sectors may have no sense of a special relationship with the land, their major or even only demand being equality of rights with the dominant sector.

"The main issue is often one of equal access to the land, particularly in the developing countries, where a large proportion of the population depends on land access for subsistence and livelihood. Despite a professed commitment to land reform by Governments and international donor agencies, the impetus for redistributive land reforms has been all but lost over the past two decades. In Latin America and parts of Asia and the Middle East there has been a steady trend towards greater rural landlessness, and in many cases a renewed pattern of land concentration. Ethnic or religious minorities comprise a large proportion of the rural landless. Many of them now earn their livelihood as casual labourers or seasonal migrant workers in agriculture. Their main demand is likely to be for access to the land as tenants or small farmers, or at least as regular agricultural workers with a minimum degree of social protection. Such demands are likely to be for affirmative action programmes of land and tenancy reform, perhaps targeted on the particular needs of vulnerable minorities ...

"As the study has sought to demonstrate, land can be a key issue behind minority claims for protection in many parts of the world. In some cases there are long-standing grievances, with minorities claiming the

right to restitution of lands of which they were dispossessed several decades or even centuries ago. In other cases, demands may be for a special protected status that will avert further dispossession today. In yet other cases, where there is evidence of blatant discrimination in patterns of land access and use, demands may be rather for genuine equality of rights with dominant majorities ...

"An important issue is the relationship between the land rights of minorities and equality of rights, including equal rights to the land. In some cases - perhaps most notably in Latin America - formal equality of rights has generated flagrant de facto inequalities. In other cases - notably in southern Africa and the Israeli-occupied territories - inequality of land rights has generated equally flagrant de facto inequalities. These are cases of blatant discrimination, the legacy of which now has to be addressed through affirmative action policies and programmes. Burning questions are those of land restitution and the extent to which future Governments should recognize the claims of the present-day landowners and occupiers who have benefited from racial discrimination in the past. In Eastern Europe different issues are raised by restitution. Evolving laws and policies, based on the long-standing claims of private landowners before the collectivization era, threaten to prejudice the land security of disadvantaged ethnic minorities with no prior claims to the land.

"There can be no easy answer to these questions. In some cases, the most vulnerable minorities are in danger of extinction if their claims to special protection are not met. In others, stronger minorities are pursuing their land claims with increasing vigour, forcing the State to establish mechanisms to deal with them. The time has surely come to grapple with these issues more effectively at the international level, to assist in arbitration on a complex array of claims.

"In future standard-setting or advocacy work on minorities, the international community faces a dilemma. There is a growing body of protection for the land and related resource rights of indigenous and tribal peoples, but no reference to land concerns in international law relating to minorities. Overall, the rights of indigenous or tribal peoples and other minorities are treated separately in international law, even though the basic distinctions between these groups are sometimes questioned by international legal experts. If the concept of minorities is not actually defined in current international law, and 'self-identification' is to be an important criterion in determining which peoples are to be considered as 'indigenous' or 'tribal', then the implications are that minorities will increasingly seek to define themselves as indigenous or tribal whenever they have major grievances concerning land rights ...

"As the report has aimed to demonstrate, a large number of minorities throughout the world could claim the status of indigenous and tribal peoples, and could formulate their land claims accordingly. But other minorities are clearly not indigenous, for example the descendants of immigrant or indentured workers. Many of these have traditionally depended

on land access for their survival, and may find their land security threatened by current processes of economic and social reform, including land privatization. In such cases, procedures are needed to ensure that vulnerable minorities receive fair and equal treatment under land reform and privatization programmes."

IV. CONCLUSIONS

106. In addition to conclusions and recommendations contained in the report of the Secretary-General (A/49/415) and after some sections of chapter II of the present report, the following conclusions can be drawn on the basis of the replies that have been analysed.

107. It is difficult to form a full picture of guarantees of the rights embodied in the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities by the States whose replies have been considered above because some States (Denmark and Germany) described in detail relevant legislation, policy and measures to that effect, while one State (Belarus) only pointed out some of them. All replies, however, showed again that non-discrimination and special measures leading to the equal enjoyment of all human rights remained the basis for the protection of rights of persons belong to minorities.

108. It should be pointed out that the States that sent replies, as parties to the major United Nations conventions in the field of human rights, undertook to be legally bound by the provisions of those treaties in their policies in this field. In particular, they expressly undertook obligations as States parties to respect and ensure the human rights embodied in those treaties as legal rules without discrimination or "without distinction of any kind".

109. The Declaration expresses minimum standards relevant to all national or ethnic, religious and linguistic minorities and applicable in all situations. The States noted pertinent standards embodied in that instrument and have been exploring ways and means of giving effective promotion to its provisions.

110. The replies were received mainly from European States, some of which, such as Denmark and Germany, demonstrated greater possibilities of inter-State cooperation through proximity. It would seem advisable that other States of the CSCE region should make full use of the mechanisms and procedures now in existence. States should also be advised to conclude bilateral treaties based on universal and regional instruments on equality, non-discrimination and the rights of persons belonging to minorities, including the Declaration of the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities.

Notes

1/ CERD/C/239/Add.1, art. 2.2.